



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, FF; CNC, LRE, MNSD, PSF

### Introduction

This hearing addressed the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for cause, pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

This hearing also addressed the tenant's cross application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancelation of the landlord's 1 Month Notice to End Tenancy for Cause ("1 Month Notice"), pursuant to section 47;
- suspend or set conditions on the landlord's right to enter the rental unit, pursuant to section 70; and
- a monetary order for return of security deposit, pursuant to section 38; and
- order the landlord to provide services or facilities required by the tenancy agreement or law pursuant to section 62.

The tenant did not participate in the conference call hearing to present her claim; consequently the tenant's entire application is dismissed without leave to reapply.

Landlord CL and landlord LL attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both landlords confirmed they were agents of the landlord's company named in this application, and had authority to speak on its behalf.

Landlord CL testified that the tenant was personally served with the landlord's application for dispute resolution hearing package ("Application") on June 13, 2016, at the rental unit where the tenant was residing. In accordance with sections 89 and 90 of

the *Act*, I find that the tenant was deemed served with the landlord's Application on June 13, 2016, the day it was served.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for cause?

Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

The landlord testified that this tenancy began on November 1, 2015 on a month-to-month basis. Rent in the amount of \$520.00 was payable on the first of each month. The tenant remitted \$247.50 for the security deposit at the start of the tenancy. The landlord is unclear whether the tenant continues to reside in the rental unit. The landlord has not seen the tenant or the tenant's car in days. Additionally the landlord observed what appeared to be people cleaning the rental unit on June 28, 2016.

On May 27, 2016 the landlord personally served the 1 Month Notice, which indicates the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord. The notice indicates an effective move-out date of June 30, 2016.

### Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

Section 55 of the *Act* establishes that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the *Act* provides that a notice to end tenancy from a landlord must be in writing and must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

As the Notice complies in form and content and as the tenant's application has been dismissed I find that the landlord is entitled to an order of possession. I therefore grant an order of possession to the landlord.

As per section 55 of the *Act*, the director must grant the landlord an order of possession if the director dismisses the tenant's application or uphold the landlord's notice. Consequently, the landlord's application was not required and the landlord's application to recover the filing fee is dismissed.

### Conclusion

The tenant's entire application is dismissed without leave to reapply.

The landlord's application for an order of possession is granted effective two (2) days after service on the tenant.

The landlords' application to recover the filing fee is dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 05, 2016

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Residential Tenancy Branch